

## **REMARKS**

The Office Action of March 10, 2006 has been received and considered. Claims 1-22 are pending. Claims 1, 19 and 22 have been amended. Reconsideration of the application in view of the preceding amendments and following remarks, and allowance of the pending claims is respectfully requested. Each of the Examiner's rejections is discussed below.

### **Section 102**

#### **Claims 1-3, 6, 10-14 and 16**

Claims 1-3, 6, 10-14 and 16 have been rejected under 35 U.S.C. § 102(a) or (e) over U.S. Patent No. 6,568,102 to Healy ("Healy"). This rejection is respectfully traversed.

Healy discloses a shoe 20 having an upper 26, a midsole 24, and an outsole 22. A horizontal lower heel plate 48 is spaced from an upper plate 46, with shock-absorber elements 44 extending between plate 46 and plate 48. A small portion of the sole joining heel plate 48 to midsole 24 is angled downwardly and rearwardly.

Applicants respectfully submit that Healy fails to disclose or make obvious a heel plate having a first end and a second end, with the first end being secured to a midfoot portion of the outsole and the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claim 1. As noted above and in the Office Action, and as can be seen in FIG. 1 of Healy, the majority of heel plate 48 extends in a horizontal direction with respect to shoe 20 and outsole 22, not downwardly and rearwardly. It is only a small portion of the initial part of the sole of Healy that angles downwardly and rearwardly from a midfoot of the outsole. Further, heel plate 48 is positioned between upper plate 46 and outsole 22; it does not extend from the outsole.

Accordingly, the rejection is improper and should be withdrawn.

### **Claims 1, 2 and 10-16**

Claims 1, 2 and 10-16 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,487,796 to Avar (“Avar”). This rejection is respectfully traversed.

Avar discloses a shoe 100 having an upper 102, a heel plate 104 and a sole 106. Sole 106 includes a horizontally disposed base 110 and an outsole 114. Support elements 108 extend between heel plate 104 and base 110.

Applicants respectfully submit that Avar fails to disclose or make obvious a heel plate having a first end and a second end, with the first end being secured to a midfoot portion of the outsole and the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claim 1. As can be seen in Figs. 3-4 of Avar, there is no plate in Avar that extends downwardly and rearwardly from a first end to a second end. Rather, there is a short portion of its sole that extends at an angle, with base 110 extending in a horizontal direction with respect to shoe 100 and sole 106, not downwardly and rearwardly. Accordingly, the rejection is improper and should be withdrawn.

### **Section 103**

#### **Claim 3**

Claim 3 has been rejected under 35 U.S.C. § 103(a) over Healy. This rejection is respectfully traversed.

As discussed above, Healy fails to disclose or make obvious a heel plate having a first end and a second end, with the first end being secured to a midfoot portion of the outsole and the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claim 1, from which claim 3 depends. Accordingly, the rejection is improper and should be withdrawn.

**Claims 4, 5, 9, 19 and 22**

Claims 4, 5, 9, 19 and 22 have been rejected under 35 U.S.C. § 103(a) over Healy or Avar in view of U.S. Patent No. 6,161,315 to Dalton (“Dalton”) or U.S. Patent No. 4,559,724 to Norton (“Norton”). Dalton and Norton are cited as disclosing projections and spikes for traction in running shoes. This rejection is respectfully traversed.

Dalton and Norton fail to overcome the deficiencies of Healy and Avar noted above. Specifically, Dalton and Norton fail to disclose or make obvious a heel plate having a first end and a second end, with the first end being secured to a midfoot portion of the outsole and the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claim 1, as required by independent claim 1, or a heel plate having a first end secured to a midfoot portion of an outsole and a second end positioned at a point below a heel portion of the outsole, with the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claims 19 and 22. Dalton and Norton simply have no heel plate extending from an outsole.

Accordingly, the rejection is improper and should be withdrawn.

**Claims 4-9, 19 and 22**

Claims 4-9, 19 and 22 have been rejected under 35 U.S.C. § 103(a) over Healy or Avar in view of U.S. Patent No. 6,289,611 to Patterson (“Patterson”). Patterson is cited as disclosing pyramidal projections and spikes for traction in running shoes. This rejection is respectfully traversed.

Patterson fails to overcome the deficiencies of Healy and Avar noted above. Specifically, Patterson fails to disclose or make obvious a heel plate having a first end and a second end, with

the first end being secured to a midfoot portion of the outsole and the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claim 1, or a heel plate having a first end secured to a midfoot portion of an outsole and a second end positioned at a point below a heel portion of the outsole, with the heel plate extending downwardly and rearwardly from the first end to the second end, as required by independent claims 19 and 22. Patterson simply has no heel plate extending from an outsole.

Accordingly, the rejection is improper and should be withdrawn.

**Allowable Subject Matter**

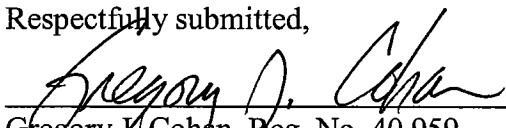
Applicants thank the Examiner for the indication that claims 17, 18, 20, and 21 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Since independent claims 1 and 19, from which claims 17, 18, 20, and 21 depend, are believed to be allowable in their present form, as discussed above, claims 17, 18, 20, and 21 are believed to be allowable in their present form as well. An indication to that effect is respectfully requested at this time.

**Conclusion**

Consequently, pending claims 1-21 are believed to be in form for allowance, and an indication to that effect is respectfully requested at this time. Please apply any charges or credits to Deposit Account No. 19-0733.

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Respectfully submitted,

  
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